

TOWN OF AMHERST, MA
HAMPSHIRE COUNTY
Received & Recorded

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

FEB 24 2011
7:35 A.M. P.M.
Book _____ Page _____
Attest _____

Town Clerk

Applicant/owner: Dragonfly Health, LLC c/o Katherine Atkinson, M.D., P.C.
29D Cottage Street, Amherst, MA 01002

Date application filed with the Town Clerk: November 5, 2010

Nature of request: To construct a new building, with associated parking, drainage and landscaping, to be utilized as a Medical Office under Section 3.360.0 of the Zoning Bylaw

Address: 17 Research Drive (Map 21B, Parcel 81, PRP Zoning District)

Legal notice: Published on November 24, 2010 and December 1, 2010 in the Daily Hampshire Gazette and sent to abutters on November 23, 2010

Board members: Thomas Simpson, Barbara Ford, Hilda Greenbaum
Town Staff: Jeffrey Bagg, Senior Planner & Bonita Weeks, Building Commissioner

Submissions:

- Project Application Report, Planning Department, 12/3/2010.
- Project Information (*Prepared by applicant*)
 - Management Plan (including staff & tenant overview), 12/1/2010;
 - Notarized letter from applicant, 12/1/2010;
 - Definition of terms;
 - Table A, proposed occupancy & Table B, proposed staff.
- Site Drawings (*Prepared by Doucet & Associates*)
 - Cover Sheet 11/24/10;
 - Legend & General Notes 11/4/10;
 - Site Layout & Materials Plan, 11/4/10 (Sheet C3);
 - Grading Plan, 11/4/10 (C4);
 - Utilities Plan, 11/4/10 (C5);
 - Erosion & Sediment Control Plan, 11/4/10 (C6);
 - Lighting Plan, 11/4/10 (C7);
 - Details, 11/4/10 (C8);
 - Details, 11/4/10 (C9);
 - Details, 11/4/10 (C10);
 - Landscape Plan, 11/12/10 (LS-1);
 - Plant List & Notes, 11/12/10 (LS-2);
- Building Drawings (*Prepared by Kuhn Riddle Architects*)
 - Building Floor Plans, 12/1/10 (A1);

- Building Elevations, 11/18/10 (A2).
- Additional Documents (*Submitted by applicant*)
 - Traffic Impact Study, 12/2009;
 - Updated Traffic Impact Letter, 11/15/10;
 - Stormwater Letter, 11/18/10;
 - Landscape Narrative, 11/12/10;
 - Transportation Management Plan, 11/18/10;
 - Physician Workforce Study, 11/18/10;
 - Site Lighting Cut Sheets, 11/18/10;
 - Vanasse & Associates, Excerpt from traffic study, 12/9/2010;
 - Chart B, Table C, Table D, and Matrix A, 12/22/2010;
 - Section 10.38 findings, 12/22/2010;
 - Site photograph of Research Drive, 12/22/2010.
- Other (*Provided by Town Staff*)
 - Zoning Bylaw Definitions (excerpt), 12/2/2010;
 - SPR2009-00001, New England Environmental Decision and approved plans, 9/2008;
 - Report to Town Meeting, Article 9, Medical Offices, 11/2009;
 - Report to Town Meeting, Article 11, Medical Use Definitions, 10/2010;

- Email from Stephanie Ciccarello, Wetland Administrator, 11/22/2010;
- Town Engineer review letter, 12/8/2010.

Submitted by the public:

1. Peter MacConnell, 6 South East St, 11/30/2010, support;
2. Charles Parham, 18 Evening Star Drive, 11/30/2010, support;
3. Chaia Wolf, 11/28/2010, support;
4. Adrienne Levine, Precinct 2, 12/1/2010, support;
5. Charles Moran, 29 Dana Place, 12/1/2010, support;
6. Irwin Friman, Precinct 10, support;
7. Jim Brissette, 180 Stanley Street, 11/30/2010, support;
8. Clare Bertrand, 610 Bay Road, 11/30/2010, support;
9. Deb Napier, 94 Larkspur Drive, 11/30/2010, support;
10. Carol Sharick, Precinct 2, 11/30/2010, support;
11. Tony Maroulis, Chamber of Commerce, 11/30/2010, support;
12. Andrew Churchill, 59 Pine Street, 11/30/2010, support;
13. Charles Scott, 11/28/2010, support;
14. Niels la Cour, 124 North Whitney Street, 11/30/2010, support;
15. Carol Johnson, 21 South Sunset Ave, 11/30/2010, support;
16. Amy & Tim Hampson, 46 Hop Brook Road, 11/30/2010, support;
17. Barry Magnani, 32 Pine Grove, 11/28/2010, support;
18. Nancy Hocken, 137 Farview Way, 11/29/2010, support;
19. Kathleen Conlan, 16 Sherry Circle, 11/26/2010, support;
20. Baer Tierkel, Precinct 4 Town Meeting Member, 11/24/2010, support;
21. Peter Jessop, 110 Pulpit Hill Road, 11/24/2010, support;
22. Steve Abdow, 174 Wildflower Drive, 11/20/2010, support;
23. Terry Rooney & Dr. Aisik Newman, Amherst Woods, 11/22/2010, support;
24. Joseph Tassoni, Jr., 78 Wildflower Drive, 11/17/2010, support;
25. Wendy Curtis, Amherst resident, 11/19/2010, support;
26. David & Betsy Mullins, Amherst Woods, 11/19/2010, support;
27. Susan Roznoy, 11 Strong Street, 11/16/2010, support;

- Town GIS Zoning District map, 12/9/2010;
28. Marilyn Hecht Blaustein, 204 Aubinwood Road, 11/21/2010, support;
 29. Jeffrey Blaustein, 204 Aubinwood Road, 11/21/2010, support;
 30. Anne Burton, Amherst Woods, 11/21/2010, support;
 31. Peter Gray-Mullin, 37 Fairview Way, 11/20/2010, support;
 32. D.Joseph Bodin, 35 Maplewood Drive, 11/19/2010, support;
 33. Claire Norton, 31 Pine Hollow, 11/17/2010, support;
 34. Barry Roberts, 200 Bay Road, 11/18/2010, support;
 35. Paul Drummond, 7 Bayberry Lane, 11/16/2010, support;
 36. Cinda Jones, W.D.Cowls, 11/15/2010, support;
 37. Paula Pietromonaco & Howard Shultz, 108 Wildflower Drive, 11/15/2010, support;
 38. Denise Barberet, 67 North Whitney Street, 12/8/2010, opposed;
 39. Denise Barberet, Additional Information, 12/8/2010, opposed;
 40. Joseph Elkinton, 16 Sherry Court, 12/7/10, support;
 41. Ralph Lowen, 104 Larkspur Drive, 12/8/2010, support;
 42. Steve Klein, 67 Larkspur Drive, 12/9/2010, opposed;
 43. Bruce Griffin, 44 Red Gate Lane, 12/9/2010, support;
 44. Lyons Witten, 120 Pulpit Hill Road, 12/9/2010, support;
 45. Carol Gray, 815 South East Street, 12/9/2010, opposed;
 46. Jane Tyson, 102 Larkspur Drive, 12/9/2010, support;
 47. Bob Ackermann, 59 Sunset Ave, 12/8/2010, opposed;
 48. Alice Epstein, 37 Bay Road, 12/9/2010, opposed;
 49. Lorraine Hart & Cheryl Patterson, 19 Research Drive, 12/9/2010, support;
 50. Molly Turner, 12/9/2010, opposed;
 51. Patricia Ramsey, 70 Larkspur Drive, 12/9/2010, opposed;
 52. Sarah McKee, 9 Chadwick Court, 12/9/2010, opposed;
 53. Alessandra Mucci-Ramos, 21 Mattoon Street, 12/9/2010, support;

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| <p>54. Nancy Hamel, 200 Triangle Street, 12/9/2010, support;</p> <p>55. Amy Vickers, Larkspur Drive, 12/9/2010, opposed;</p> <p>58. David Bryne, 37 Palley Village Place, 12/9/2010, opposed;</p> <p>59. Mary O'Brien, 98 Iduna Lane, 12/9/2010, support;</p> <p>60. Catherine Eden, 180 Stanley Street, 12/13/2010, support;</p> <p>61. Cate Zolkos, 51 Wildflower Drive, 12/14/2010, support;</p> <p>62. Norm Simonson, 21 Palley Village Place, 12/15/2010, questions;</p> <p>63. David Bryne, 37 Palley Village Place, 12/17/2010, opposed;</p> <p>64. Mark Prince, 17 Palley Village Place, 12/17/2010, opposed;</p> <p>65. Lucy Zhu, 40 Palley Village Place, 12/17/2010, opposed;</p> <p>66. Ernest & Ellen Woo, 27 Palley Village Place, 12/17/2010, opposed;</p> | <p>56. Mary Streeter, Transcript of Article 9 (11/4/2009) received 12/9/2010</p> <p>57. Mary Streeter, 66 Larkspur Drive, 12/9/2010, opposed;</p> <p>67. Giselle Maradiaga, 6 Palley Village Place, 12/17/2010, opposed;</p> <p>68. Mohamed Nagooradumai, 42 Palley Village Place, 12/17/2010, opposed</p> <p>69. Peter Kaminski, 320 Pulpit Hill Road, 12/19/2010, support;</p> <p>70. Ilana Schmitt, MD, 12/20/2010, support;</p> <p>71. Dr. Diane Amsterdam, 12/21/2010, support;</p> <p>72. Susan Lowery, MD, 12/21/2010, support</p> <p>73. David Bryne, 37 Palley Village Place, received 12/22/2010, opposed;</p> <p>74. Amy Vickers, Larkspur Drive, 12/22/2010, opposed;</p> <p>75. Anne Delman, 35 Palley Village Place, 12/19/2010, opposed;</p> <p>76. Mary Streeter, 66 Larkspur Drive, 12/22/2010, opposed.</p> |
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Site Visit: December 7, 2010

The Board members and the Senior Planner met the applicant's consultants on-site: John Kuhn, AIA & Anne Marshall of Kuhn Riddle Architects; Andrew Bohne, ASLA of New England Environmental, Inc.; and Chris Stidsen, P.E., of Doucet & Associates. The Board members observed the following:

- The location of the property along the west side of Research Drive;
- The approximate property line and existing vegetation along the east side of Research Drive;
- The approximate location of the north, south and east property lines;
- The location of the existing sidewalk along Larkspur Drive and partially installed drainage basin;
- The approximate location of the proposed building and the proposed parking area adjacent to Larkspur Drive;
- The existing permeable pavers and lighting fixtures on the adjacent New England Environmental property.

Public Hearing: December 9, 2010

Katherine Atkinson, M.D., P.C., representing Dragonfly Health LLC, was accompanied by: Margaret Preissler, Project Assistant; John Kuhn, AIA and Ann Marshall, Kuhn Riddle Architects; Thomas Lesser, Esq.; Chris Stidsen, P.E., Doucet and Associates, Inc.; Andrew Bohne, ASLA, New England Environmental, Inc.; and Shaun Kelly, Vanasse & Associates, Inc.

Mr. Kuhn provided a brief history of the project. His statements are summarized as follows:

- In 2008 the Marcus' secured approval under Site Plan Review for the construction of two (2) buildings.
- Since the approval, only one (1) of the two (2) buildings was constructed for the offices of New England Environmental, Inc.

- Shortly after completion of the first building, Dr. Atkinson expressed interest in constructing and occupying the second building. However, in June of 2009, the Zoning Board of Appeals upheld a decision of the Building Commissioner who determined that a doctor's office was considered a Medical Center under the Zoning Bylaw, a use not allowed in the Professional Research Park (PRP) Zoning District. In May of 2009 Town Meeting voted to amend the Zoning Bylaw to separate and define medical uses. The amendment defined a Medical Office as a separate category and allowed the use in the PRP Zoning District with a Special Permit.

Dr. Atkinson provided a summary of her current practice and her vision for her practice in the new building. Her statements are summarized as follows:

- She lives in Amherst Woods and has four (4) children in the Amherst school system. She has always had a vision of providing patient-based care with a human touch in Amherst. The existing medical practice on Cottage Street has three providers sharing the same space with limited accommodations for patients. She noted in the submitted Physician Workforce Study that the number of primary care doctors has dropped significantly while the demand has grown.
- She considered other locations in Amherst, including downtown; however, none of the locations fit the needs of her practice as well as this property. The location next to the neighborhoods of Echo Hill and Amherst Woods is close to where some of her patients live. The location is also easily accessible from Route 9 and is in close proximity to a bus stop.
- She envisions a medical/behavioral health collaborative model in which many services are offered within one location such as a doctor, family counseling, and a laboratory. She intends to include her two (2) existing partners, Paul Baecher, M.D. and Kathleen Coulombe, NP, APRN, to provide good medical care to patients without being as large or impersonal as a medical center or clinic. She does not plan to expand beyond the scope that is outlined in the submitted Management Plan and accompanying documents. The proposal is based upon a specific model and style, tailored to meet the specific requirements/limits under the Medical Office definition.
- The floor plan and number of examination rooms have been designed to incorporate the collaborative health care concept which encourages a higher level of care, better patient flow, and privacy. Each specialty has different needs which can be spread out over several offices rather than one small office. The practice has run out of space at the current location and the proposed floor plan is large enough to meet the needs and goals of a collaborative, patient-based model.

The following definitions from the Zoning Bylaw were discussed and analyzed:

12.263 Medical office: A Medical, dental, or psychiatric practice offering medical or dental services on an outpatient basis and including a total of no more than the full time equivalent of three (3) principal health care providers and two (2) other medical or dental professionals, exclusive of administrative or clerical staff, providing services on the premises. A medical or dental office may also contain associated in-house ancillary services such as in-house diagnostic testing facilities, medical counseling services, and similar services.

12.250 Other Medical or Dental Professionals: A health care professional who may provide patient care, patient support, or ancillary medical services under the supervision of a principal health care provider. For the purposes of this Bylaw, this shall include nurse practitioners, registered or licensed practical nurses, physicians' assistants, dental hygienists, sonographers, phlebotomists, and similar medical professionals.

12.251 Principal Health Care Provider: A health care professional licensed to operate as a physician or dentist in the Commonwealth of Massachusetts, who provides care to patients and may refer patients or receive referrals for specific medical or dental services, particularly in an outpatient setting. For the purposes of this Bylaw, principal health care providers shall include physicians, dentists, and physician specialists such as psychiatrists, dermatologists, dental surgeons, and ophthalmologists.

Mr. Kuhn reviewed the project in terms of the Zoning Bylaw. His statements are summarized as follows:

- The scope of the project, including the number of doctors and other employees, was based on the definitions in the Zoning Bylaw. As the first application under these new definitions, the proposal was created carefully. The proposal considers full time equivalent to be 40 hours per week of direct patient care outlined as follows:
 - Three (3) Principal Health Care Providers at 40 hours per week total 120 hours. Table A (submitted) shows that Dr. Atkinson, Dr. Baecher and Ms. Coulombe account for 80 hours, or two (2) FTE's. The remaining time will be distributed between a psychiatrist at 16 hours per week and a limited number of hours to hire a new Primary Health Care Provider.
 - Two (2) Other Medical Professionals excluding clerical and administrative staff. The full time equivalent of two (2) Other Medical Professionals is 80 hours per week. According to Table A, 56 hours of time is distributed between a Nurse Practitioner and Registered Nurse. An additional employee could be hired for the remaining 0.55 FTE hours.
 - All clerical and administrative staffs are listed in the chart but are excluded from the limits under the Medical Office definition.
 - Associated in-house ancillary services. A psychologist and social worker are listed as additional services which account for the full time equivalent of 2.25 employees. Their services have been defined as "ancillary" because the services are provided to patients of the practice and are therefore associated and in-house.
 - Employee descriptions are listed in Table A. Any of the functions that did not fit directly into the categories were considered ancillary services, for example, the technician drawing blood and the medical counseling services (i.e., the psychologist). The administrative and clerical staffs are those employees who do not provide direct patient care.
 - Table B (submitted) was prepared to illustrate the minimum professional requirements necessary for each employee.
- The footprint of the proposed two-story, wood framed LEED-certified building will be approximately 1,000 square feet larger than the previously approved building. The design is similar to the other buildings on Research Drive, particularly the New England Environmental building.
- The first floor plan depicts the central entrance, waiting and reception area, doctors' offices, eleven examination rooms and four consultation rooms. The second floor plan depicts vacant space for a potential tenant, blood drawing station, staff lunch/break rooms, and meeting room. The basement includes mechanical rooms, storage areas and an employee-only gym.
- Twenty-nine parking spaces were approved by the earlier Site Plan Review, but the new proposal will provide 46 parking spaces in accordance with the requirements of the Zoning Bylaw for this use.

- The larger building and expanded parking areas necessitate minor changes to the drainage plans.
- There will be six (6), 12 feet tall pole lights, similar to those installed on the New England Environmental site, to illuminate the parking areas. All fixtures will be downcast to prevent light trespass.
- The modifications to the drainage system and the additional parking areas necessitate minor changes to the landscaping. The landscaping plan utilizes native plants and includes screening along the parking areas and dumpster.
- A sign for the "Atkinson Building" will be on the south side of the building facing the main parking area. An additional identification sign will be installed at the entrance of the property along Research Drive.
- Supplies will be delivered to the site by UPS or Fed Ex vehicles, as is common with larger office buildings and will be done during normal business hours. Any hazardous medical wastes will be stored securely inside to be picked up quarterly.
- A bicycle rack will be provided and located near the side walk adjacent to Research Drive.
- An enclosed play area will be provided along the south side of the building for use by patients, or children of patients.
- A Transportation Management Plan has been prepared which outlines incentives for employees to reduce vehicle use.

Mr. Kelly reviewed the Traffic Impact Study and Updated Review Letter. His statements are summarized as follows:

- The Traffic Impact Study was completed in 2009 based upon a mix of office and medical uses. The Study reviewed various degrees of development on Research Drive from a no-build condition with no medical uses to full build-out comprised entirely of medical uses. The Study incorporated the entire area from Route 9, Old Belchertown Road, Larkspur Drive and Research Drive. Palley Village Place was not included in the Study. The purpose of a Traffic Impact Study is to determine whether various development conditions will change the Level of Service at any intersection. Level of Service is quantified by grades ranging from "A", meaning no wait time to turn, to "D", which indicates a substantial impact to traffic flow and turning wait times.
- The Study concluded that even with the most intense development of Research Drive, the impact would be minimal with no delays or changes to the Level of Service at the intersections within the area. Once the project scope was finalized, Vanasse and Associates updated the Study and prepared a detailed comparison between the Study and the specific proposal. An updated study, summarized in a letter dated November 15, 2010, indicated that the proposal is not expected to result in a notable impact to traffic operations in the study area. Mr. Bagg noted that the applicant's Management Plan provides additional information regarding the expected number of patients per day. Dr. Atkinson confirmed that they expect to see approximately 10 patients per hour and will operate for 11 hours per day. She believes that the practice may see about 130 patients per day, fewer than the Traffic Study assumed. Mr. Kelly confirmed that the Traffic Study is based on higher numbers.

Ms. Ford asked whether the proposal allows for future expansion of the practice. Dr. Atkinson stated there is no plan to expand the practice. She stated that the added space will allow more privacy, flexibility, and more appropriate facilities to provide services.

The following members of the public spoke regarding the application. All statements are summarized:

1. Irwin Friman, 76 Fearing Street: Supports the proposal because it will provide jobs during building construction and will increase the tax revenue.
2. Fred Mosely, 70 Larkspur Drive: Opposes the proposal based upon the lack of definition for full time equivalent and the proposed uses classified as ancillary services.
3. Mary Streeter, 66 Larkspur Drive: Opposes the proposal based upon issues related to quality of life, visual impact, safety concerns and that the proposal does not meet the definition/limits of a Medical Office. She noted specific concerns related to traffic impact and compatibility with the intent of PRP Zoning District. She also noted that the limits of the medical uses were established to reduce the traffic impact and that the building is larger than envisioned for the definition of Medical Office.
4. Andy Churchill, 59 Pine Street: Supports the proposal based upon the fact that some residents of the Larkspur Drive area support the project. As a member of Town Meeting, he believes that the proposal meets the intent and definition approved by a 2/3 vote of Town Meeting. He noted that the Traffic Study indicates that there will be minimal impact on the neighborhood or quality of life.
5. Steve Abdow, 174 Wildflower Drive: Supports the proposal based on upon minimal impact on traffic on Larkspur Drive or the neighborhood and noted that the concept is compatible with the other uses on Research Drive.
6. Denise Barberet, 67 North Whitney Street: Opposes the proposal based upon historical and incremental changes to medical use definitions over time. She noted that the definitions are vague, poorly worded, and do not reflect actual situations, and that the proposal does not comply with the spirit or intent of the definition and/or Zoning Bylaw.
7. Hannah Abbot, 7 Kestrel Court: Supports the proposal based upon the benefit of supporting local businesses.

Mr. Simpson MOVED to continue the public hearing to Wednesday, December 22, 2010 at 7:30 p.m. Ms. Ford seconded the motion and the Board VOTED unanimously to continue the public hearing.

Public Hearing: December 22, 2010 (*continued from December 9, 2010*)

Katherine Atkinson, M.D., P.C., representing Dragonfly Health LLC, was accompanied by: Margaret Preissler, Project Assistant; John Kuhn, AIA and Ann Marshall, Kuhn Riddle Architects; Thomas Lesser, Esq.; Chris Stidsen, P.E., Doucet and Associates, Inc.; Andrew Bohne, ASLA, New England Environmental, Inc.; and Shaun Kelly, Vanasse & Associates, Inc.

The following items were reviewed and/or discussed:

- In response to concerns about the potential impact of other additional applications for medical offices on Research Drive, Mr. Kuhn noted that any new medical office would also require a Special Permit. Mr. Bagg noted that because only a Medical Office is allowed in the PRP, more than one Medical Office on the same property would constitute a Medical Center, which is not allowed.
- The Board asked what the developer intended for landscaping and screening along Larkspur Drive. Mr. Bohne stated that the landscaping required under the SPR approval for the New

England Environmental building has not been installed in order to incorporate potential changes from this application. He noted that all landscaping will be installed once the drainage is completed. He stated that landscaping will be installed to screen the parking area from Larkspur Drive.

- The Board discussed the landscaping and screening along the east side of Research Drive. Mr. Kuhn noted that a row of evergreen shrubs was approved as part of the previous SPR approval. Regarding the issue of screening the proposed building, it was noted that the applicant is not required to screen the entire building from the view of the residents of Palley Village. Mr. Bagg noted that the grade at the boundary with Palley Village along the east side of Research Drive area is higher than the building site. The existing evergreens and the grade of the site provide adequate screening from the headlights of vehicles leaving the parking lot.
- The Board asked for clarification of the results of the Traffic Impact Study. Mr. Kuhn read the conclusion from the Vanasse & Associates letter, dated November 15, 2010:
 - *The current development program, which entails an expansion of the previously approved building at 17 Research Drive in order to accommodate a 15,875 square foot medical office building, is not expected to result in a notable impact to traffic operations as compared to the approved development program for the site. During peak hours of traffic operation, traffic increases are projected to amount to 5 additional trips or less, with weekday evening and daily trip generation reduced as compared to the prior program. Based on the results of the December 2009 TIAS, ample capacity exists to accommodate the proposed project, with minimal impact within the study area.*
 - Mr. Kelly reviewed Chart B (submitted) and explained the calculations. He noted that the letter dated November 15, 2010, indicates an increase of 486 vehicle trips from the "no-build" scenario to the "proposed" scenario. The additional 486 vehicle trips represent both vehicles entering and exiting. He added that 242 vehicles will enter and 242 will exit on any given day. He stated that over a 10 hour period, this averages to 24.3 vehicles entering, or exiting, per hour. He stated that approximately 10% of the vehicles, or 2.4 cars per hour, were likely to utilize Larkspur Drive.
 - Mr. Kuhn stated that the data used for the Impact Study are generalized, and designed to portray a higher estimate of traffic. He noted that Matrix A (submitted) estimates that, including staff, the number of cars per day would be closer to 140 cars per day versus the Impact Study's estimated 243 trips per day.
- The Board discussed the intended use of the second floor meeting room. Dr. Atkinson stated that she would like to have the ability to use the meeting room for public events on evenings and weekends.
- The Board asked about the condition of the sidewalk along Larkspur Drive. Mr. Kuhn explained that during the SPR process, a sidewalk comprised of compacted gravel was installed. He noted another sidewalk from Larkspur Drive up to Research Drive exists between the subject property and the Hart & Patterson property. He noted that the proposal includes a connection to this walkway.
- The Board discussed the definition of full time equivalent. The Board noted that the Zoning Bylaw does not define the term. Ms Greenbaum said that it is difficult to determine the number of hours a conscientious professional person actually works to accomplish the requirements of the position. She noted that if the other duties required of physicians were

included in the forty hours, direct patient care would need to be reduced - a lesser impact on the neighborhood.

- Attorney Lesser stated that the proposal interprets the term as meaning 40 hours per week. He added that the proposal assumes that doctors may be limited to the full time equivalent for the purposes of seeing patients, but noted that this should not include time that a doctor may require to complete paperwork, or other work not associated with direct patient care.
- Two members of The Board acknowledged that the applicant's interpretation of this term, as meaning 40 hours per week of direct patient care, is reasonable. They noted that a doctor would certainly work more than 40 hours per week, but confirmed that the applicant is representing that a doctor will be limited to seeing patients a maximum of the full time equivalents listed in the Medical Office definition.
- The Board asked about the adequacy and safety of the storm water detention basin. Ms. Greenbaum expressed concern about the potential for someone to fall into the basin and recommended a fence be installed. Mr. Bohne stated that the depth of the basin will be reduced after final construction and that the basin will be less accessible when the landscaping is installed. The Board noted that the storm water system has been slightly modified from the previous SPR approval and it was reviewed and approved by the Town Engineer.

The following members of the public spoke regarding the application. All statements are summarized:

1. Amy Ben-Ezra, 1164 South East Street: Supports the proposal based on observations of the larger practice on Cottage Street having minimal impact to that neighborhood. She acknowledged that a building will be constructed on the property regardless of the use, and that the community will benefit from a LEED certified building constructed and occupied by a resident of Amherst.
2. Steve Klein, 67 Larkspur Drive, opposes the proposal based upon its size and concern that the use will morph into a Medical Center, which is not allowed in the PRP District.
3. Farnsworth Lobenstine, 1164 South East Street: Supports the proposal as it promotes the health, safety and well being of the residents of Amherst as identified in the Zoning Bylaw. He acknowledged the issue of excessive taxes in Amherst and stated that maintaining family doctors in Amherst is essential to a viable town.
4. Claire Norton, 208 Pine Street: Supports the proposal based upon sustainability of the project and for the potential for patients to walk or use public transportation.
5. Yi Ding, 40 Palley Village Place: Opposes the proposal based upon the potential impact from traffic and noise related to the number of patients and employees.
6. Barbara Schaffer Bacon, 281 North Street, Belchertown, MA: Supports the proposal as the owner of an abutting property. She acknowledged that proposal is larger than expected, but does not believe there will be any significant impacts.
7. Jim Brissette, 180 Stanley Street: Supports the proposal as a Town Meeting member who voted to approve this type of project. He noted that the proposal meets the intent and definition approved by a 2/3 vote of Town Meeting.
8. Marcy Sala, 161 Pine Street: Supports the proposal based upon a 2/3 vote of Town Meeting. She noted that the project is in harmony with the general purpose and intent of the Zoning Bylaw. She stated that conditions on the permit can be used to ensure that the use stays a Medical Office.

9. Carol Johnson, 21 South Sunset: Supports the proposal as a Town Meeting member and stated that the building and use meet the purpose and intent of the Zoning Bylaw.
10. Anthony Burton, 35 Trillium Way: Supports the proposal as a patient and noted that concerns related to traffic are exaggerated. He stated that a Medical Office on a bus route is invaluable to helping underserved members of the community.
11. Amy Vickers, 107 Larkspur Drive: Opposes the proposal based upon concern over the size, scale and level of visitation associated with the use. She stated that the proposal will lower property values in the area.
12. Pam Rooney, 42 Cottage Street: Supports the proposal as a resident of Cottage Street near the Amity Medical building. She noted that the existing use is benign and that the use meets the purposes of the PRP District.
13. Francesca Maltese, 365 Shays Street: Supports the proposal based upon the use being compatible with both residential uses and professional offices.
14. Jeff Blaustein, 204 Aubinwood Road: Supports the proposal as a Town Meeting member. He stated that the project is exactly what he envisioned as a Medical Office and the project is in compliance with the intent of the Zoning Bylaw.
15. John Coull, 20 Sherman Lane: Supports the proposal because it will add to the tax base, maintain a local family practice and contribute to the existing uses on Research Drive.
16. Norman Simonson, 21 Palley Village Place: Expressed concern about traffic and noted that the lack of lighting and sidewalks may be a safety issue at the existing PVTa bus stop. He also expressed concern about the potential for the use to morph into a Medical Center.
17. Mark Prince, 17 Palley Village Place: Opposes the proposal based upon being an abutter. He expressed concern about the potential hazard created by the catch basin, the hours of operation later than 5:00 p.m. and the lack of lighting at the bus stop.
18. Ernest Woo, 27 Palley Village Place: Opposes the proposal based on the potential impact on traffic and noted the problem of people mistaking Palley Village Place for Research Drive.
19. David Bryne, 37 Palley Village Place: Opposes the proposal based upon lack of screening, the additional traffic on Old Belchertown Road and potential for the use to morph into a Medical Center.
20. Alan Powell, 5 Blue Hills Road: Opposes the proposal based upon potential impact from additional traffic.
21. Paul DiBenedetto, 236 Aubinwood Road: Supports the proposal based upon the Traffic Study showing that there will be little impact to the neighborhood.

Ms. Greenbaum expressed significant concern that the size of the building at nearly 16,000 square feet is about five times larger than the present office on Cottage Street. She asked what conditions on the permit would prevent the practice from growing into a more intense medical use, a concern expressed by several neighbors. She stated that removing the second floor may mitigate the potential impact on the abutters. Mr. Simpson stated that the focus should be on conditions such as limiting hours of operation or number of employees, to prevent the use from expanding over time. Attorney Lesser stated that the proposal would not be viable without a second floor and noted that the proposal is within the limits established in the Zoning Bylaw for a Medical Office. Ms. Weeks noted that other uses are allowed in the building "by-right".

Ms. Ford MOVED to close the evidentiary portion of the public hearing. Mr. Simpson seconded the motion and the Board VOTED unanimously to close the public hearing.

Mr. Simpson MOVED to continue the public meeting to December 28, 2010 at 7:30 p.m. Ms. Ford seconded the motion and the Board VOTED unanimously to continue the public meeting.

Public Meeting: December 28, 2010 (*continued from December 22, 2010*).

The following items were reviewed and/or discussed:

- The Board discussed the definitions of Medical Office, Principal Health Care Provider and Other Medical Professional in the Zoning Bylaw. Ms. Greenbaum and Ms. Ford expressed concern with whether or not the proposal meets these definitions. Mr. Simpson stated that the applicant's Management Plan and other submitted materials ensure that the use will comply with the limitations. He stated that if approved, the applicant would need to operate the use in accordance with those documents and noted that the Building Commissioner would review information to ensure compliance with the Zoning Bylaw.
- The Board again discussed the use of the meeting room. Ms. Greenbaum and Ms. Ford were apprehensive about the potential for the meeting room to be a separate use from the doctor's office, if unregulated. Mr. Simpson stated that it was not likely to have a significant impact to traffic on the site because the other offices on Research Drive are closed on the weekends. Two (2) of the Board members determined that the use of the meeting room could be allowed during normal business hours and limited to only two (2) events per week after hours, or anytime during the weekend. Ms. Greenbaum opposed allowing the use of the meeting room on the weekend noting that traffic and noise could impact the neighborhood negatively. The Board determined that any members of the public using the meeting room should be out of the building by 9:00 P.M.
- The Board modified the hours of operation on Fridays from 5:00 P.M. to 5:30 P.M. Ms. Weeks stated that if the hours of operation are listed as a condition, the applicant would need to submit a new application to modify the permit.
- The Zoning Board members stated that the safety and convenience of the existing PVTA bus stop, in terms of lighting and sidewalk access, should be considered by the Amherst Select Board and/or the Public Transportation and Bicycle Committee.

Specific Findings:

The Board found under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 – *The proposal is suitably located in the neighborhood in which it is proposed.* The project is situated in the PRP Zoning District where a Medical Office is allowed under a Special Permit. The proposal meets all of the other Zoning Bylaw requirements, such as setbacks, coverage, building height, parking and signage. Also, the property is in the vicinity of an existing PVTA bus stop.

10.381 *The proposal is compatible with existing uses and other uses permitted by right in the same district.* A Medical Office is similar in operation to the other uses on Research Drive which are all offices.

10.382 & 10.385– *The proposal would not constitute a nuisance due to air and water pollution, flood, noise, odor, dust, vibration, lights, or visually offensive structures or site features; and, reasonably protects the adjoining premises against detrimental or offensive uses on the site, including air and water pollution, flood, noise, odor, dust, vibration, lights or visually offensive structures or site features.* The proposal includes a professionally designed storm water drainage plan approved by the Town Engineer and the parking areas have semi-permeable surfaces. The site lighting incorporates downcast light fixtures and the proposal will not create any new odors, dust, or vibrations.

10.383 & 10.387 - *The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians; and, provides convenient and safe vehicular and pedestrian movement within the site, and in relation to adjacent streets, property or improvements.* The proposal includes a connection to an existing pedestrian walkway from Larkspur Drive to Research Drive and a walkway adjacent to Research Drive. The permit requires the installation of a fence on the property to deter pedestrians from accidentally straying towards the storm water detention basin. A traffic study was conducted for the area and a revision letter, dated November 15, 2010, concluded that there would be “no notable impact to the area’s traffic operations”. The proposal provides parking, access ways, and pedestrian walkways in accordance with the design requirements of Section 7.1 of the Zoning Bylaw. The property is located in close proximity to an existing PVTA bus stop allowing for access to the use via public transportation. Although the bus stop may not have adequate lighting or sidewalks directly to the subject property, the existence of a PVTA stop increases the convenience for access to the use.

10.384 - *Adequate and appropriate facilities would be provided for the proper operation of the proposed use.* The proposal will be connected to Town utilities including sewer and water supply. The project provides adequate areas for deliveries, refuse disposal, parking, enclosed children’s play area, bicycle rack, and handicapped accessibility.

10.386 - *The proposal ensures that it is in conformance with the Parking and Sign regulations (Articles 7 and 8, respectively) of this Bylaw.* The proposal provides 46 parking spaces, including three (3) handicapped accessible spaces, to accommodate employees and patients in accordance with the requirements of Section 7.005 of the Zoning Bylaw and the parking area meets all applicable requirements of Article 7. The proposal includes two (2) signs, a directory sign at the entrance and an identification sign on the building. The signs are in accordance with the size and location requirements of Article 8.

10.388 - *The proposal ensures adequate space for the off-street loading and unloading of vehicles, goods, products, materials and equipment incidental to the normal operation of the establishment or use.* The off-street loading or unloading area for the use is minimal, however, the entrance and parking area have been designed to accommodate deliveries and refuse removal.

10.389 & 10.396 - *The proposal provides adequate methods of disposal and/or storage for sewage, refuse, recyclables, and other wastes resulting from the uses permitted or permissible on the site, and methods of drainage for surface water; and, provides screening for storage areas, loading docks, dumpsters, rooftop equipment, utility buildings and similar features .*

The proposal includes a screened dumpster area with regularly scheduled disposal and the property is connected to Town sewer. The Management Plan states that any hazardous wastes will be handled in accordance with federal and state regulations.

10.392 – The proposal provides adequate landscaping, including the screening of adjacent residential uses, provision of street trees, landscape islands in the parking lot and a landscape buffer along the street frontage. The landscaping along the east property line adjacent to the residential zoning district was approved and installed in accordance with the Site Plan Review approval, SPR 2009-00001. The landscaping plan identifies landscaped islands in the parking areas, vegetative borders along the south and west property lines and street trees adjacent to Research Drive. Screening from parking spaces will be in conformance with the requirements of Section 7.112 of the Zoning Bylaw. The topography of the adjacent property, Palley Village, contains a significant upward slope which will act as a screen from the headlights of vehicles exiting the property.

10.394 – The proposal avoids, to the extent feasible, impact on steep slopes, floodplains, scenic views, grade changes, and wetlands. The submitted drainage plan protects the slope adjacent to Larkspur Drive. The slope along Larkspur Drive will be landscaped in accordance with the submitted landscape plan.

10.395 – The proposal does not create disharmony with respect to the terrain and to the use, scale and architecture of existing buildings in the vicinity which have functional or visual relationship thereto. The building is similar in size/scale to the other buildings on Research Drive. The building will be LEED certified and the project will share many sustainable attributes with the New England Environmental building immediately to the north, such as native landscaping and permeable parking areas.

10.397 – The proposal provides adequate recreational facilities, open space and amenities for the proposed use. The proposal includes an enclosed play area for children and bicycle rack for use by those who may not drive to the site. The permit requires the installation of a fence on the property to deter pedestrians from accidentally straying towards the storm water detention basin.

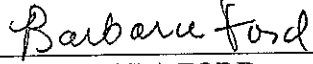
10.398 – The proposal is in harmony with the general purpose and intent of the Bylaw and the Master Plan. The Board found that the proposal benefits the general public and is in harmony with the Master Plan for all the reasons listed herein.

Public Meeting – Zoning Board Decision

Mr. Simpson moved to APPROVE the application with conditions. Ms. Greenbaum seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to APPROVE the request for Special Permit, ZBA FY2011-00013, To construct a new building, with associated parking, drainage and landscaping, to be utilized as a Medical Office under Section 3.360.0 of the Zoning Bylaw, at 17 Research Drive (Map 21B, Parcel 81, PRP Zoning District), with conditions.


TOM SIMPSON


BARBARA FORD


HILDA GREENBAUM

FILED THIS 24th day of February, 2011 at 9:42 a.m.
in the office of the Amherst Town Clerk Shadia J. Bungen
TWENTY-DAY APPEAL period expires, MARCH 16 2011.
NOTICE OF DECISION mailed this 24th day of February, 2011
to the attached list of addresses by Jeffrey R. Bagg, for the Board.
NOTICE OF PERMIT or Variance filed this day of , 2011,
in the Hampshire County Registry of Deeds.


Town of Amherst
Zoning Board of Appeals

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit, ZBA FY2011-00013, to construct a new building, with associated parking, drainage and landscaping, to be utilized as a Medical Office under Section 3.360.0 of the Zoning Bylaw, at 17 Research Drive (Map 21B, Parcel 81, PRP Zoning District), with the following conditions:

1. The entire project, including but not limited to, the building, parking areas, drainage and landscaping shall be constructed in accordance with the following plans stamped approved, December 28, 2010 by the Amherst Zoning Board of Appeals:
 - a. "Site development plans" prepared by Doucet and Associates, Inc., dated November 4, 2010;
 - b. "Landscape plan", prepared by New England Environmental, Inc., dated November 12, 2010;
 - c. Floor "plans", dated December 1, 2010 and undated "elevations", prepared by Kuhn Riddle Architects.
2. The use of the property shall be in accordance with the use, Medical Office, as defined in the Amherst Zoning Bylaw, as follows:
 - a. There shall be no more than the full time equivalent of three (3) Principal Health Care Providers seeing patients no more than a collective total of 120 hours per week.
 - b. There shall be no more than two (2) Other Medical or Dental Professionals seeing patients no more than a collective total of 80 hours per week.
3. The medical practice shall be operated and managed in accordance with the following documents, stamped approved by the Zoning Board of Appeals on December 28, 2010:
 - a. "Management Plan", dated December 1, 2010;
 - b. "Definition of Terms";
 - c. "Table A, proposed occupancy".
4. The hours of operation for patients shall be from 8:00 a.m. to 7:00 p.m. Monday through Thursday and 8:00 a.m. to 5:30 p.m. on Friday in accordance with the Management Plan, amended and stamped approved on December 28, 2010.
5. In addition to the approved hours of operation, only the "meeting room" may be used for an event, such as a meeting, seminar and/or class no more than two (2) days per week. For this purpose, a week shall be considered Monday through Sunday. Any guests, patrons, or members of the public using the "meeting room" shall leave the building by 9:00 p.m.

6. Any substantial changes to the Management Plan, or other approved documents, shall be submitted for review by the Zoning Board of Appeals at a public meeting. The Zoning Board of Appeals shall determine whether changes are *de minimus*, or significant enough to require modification of the Special Permit.
7. All rooms shall be used as labeled on the approved floor plans.
8. When a tenant is secured for the vacant space on the second floor, information about the tenant and use shall be presented to the Zoning Board of Appeals at a public meeting for review and approval.
9. A fence, at least 24 inches in height, shall be installed for the purposes of discouraging access to the western area of the property and/or the drainage basin located on the adjacent property to the north. The fence shall be continuous and extend from the timber post guardrail along the western parking area to the property line and extend eastward toward the building, ending at the handicapped accessible ramp on the north side of the building.
10. All landscaping shall be:
 - a. Installed no later than September, 2012;
 - b. Installed substantially in accordance with the approved landscaping plan; and
 - c. Shall be permanently maintained in good condition.
11. The location, size, height and lettering of the proposed sign adjacent to Research Drive shall be reviewed and approved by the Zoning Board of Appeals at a public meeting prior to installation.
12. The portion of this permit that pertains to the use as a Medical Office, shall expire if Katherine Atkinson, M.D., P.C., is no longer a Principal Health Care Provider in the Medical Office and/or the principal tenant of the current owner (Dragonfly Health, LLC), or any future owner of the property.


Tom Simpson, Chair
Amherst Zoning Board of Appeals

2/22/11
DATE

THE COMMONWEALTH OF MASSACHUSETTS
AMHERST

City or Town
NOTICE OF SPECIAL PERMIT
Special Permit
(General Laws Chapter 40A)

Notice is hereby given that a Special Permit has been granted

To Dragonfly Health, LLC

Address 29D Cottage Street

City or Town Amherst, MA 01002

Identify Land Affected: 17 Research Drive
(Map 21B, Parcel 81, PRP Zoning District)

By the **Town of Amherst Zoning Board of Appeals** affecting the rights of the owner
with respect to the use of the premises on

17 Research Drive Amherst
Street City or Town

The record of title standing in the name of
Carex, LLC

Name of Owner

Whose address is 8 Ladyslipper Circle Amherst MA 01002
Street City or Town State Zip Code

By a deed duly recorded in the

Hampshire County Registry of Deeds: Book 9593 Page 79
or

Hampshire Registry District of the Land Court, Certificate No. _____,
Book _____, Page _____

The decision of said Board is on file, with the papers, in ZBA FY2011-00013
In the office of the Town Clerk Sandra J. Burgess

Certified this _____ day of _____

Board of Appeals:

Thomas Burgess Chairman
(Board of Appeals)
Barbara Ford Clerk
(Board of Appeals)

_____ at _____ o'clock and _____ minutes _____ m.

Received and entered with the Register of Deeds in the County of Hampshire

Book _____ Page _____

ATTEST _____

Register of Deeds

Notice to be recorded by Land Owner

**BOARD OF APPEALS
AMHERST, MASSACHUSETTS
RECORD OF APPEALS AND DECISION RENDERED**

Petition of Dragonfly Health, LLC

For Special Permit, ZBA FY2011-00013, to construct a new building, with associated parking, drainage and landscaping, to be utilized as a Medical Office under Section 3.360.0 of the Zoning Bylaw, at 17 Research Drive (Map 21B, Parcel 81, PRP Zoning District), with conditions.

On the premises of 17 Research Drive

At or on 17 Research Drive (Map 21B, Parcel 81) Amherst, MA

NOTICE of hearing as follows mailed (date) November 23, 2010
to attached list of addresses and published in the Daily Hampshire Gazette
dated November 24, 2010 and December 1, 2010

The Amherst Zoning Board of Appeals will meet on *Thursday, December 9, 2010*, at 7:30 P.M. in the TOWN ROOM of the AMHERST TOWN HALL to conduct the following business:
PUBLIC HEARINGS:
ZBA FY2011-00013 -- Dragonfly Health, LLC -- To construct a new building, with associated parking, drainage and landscaping, to be utilized as a Medical Office under Section 3.360.0 of the Zoning Bylaw, at 15/17 Research Drive (Map 21B, Parcel 81, PRP Zoning District)
THOMAS SIMPSON, CHAIR
AMHERST ZONING BOARD OF APPEALS
November 24, December 1

Hearing date and place 12/9/2010 Town Room, 12/22/2010, Town Room, 12/28/2010, Town Room Amherst Town Hall

SITTING BOARD and VOTE TAKEN:

To **APPROVE** the request for Special Permit, ZBA FY2011-00013, to construct a new building, with associated parking, drainage and landscaping, to be utilized as a Medical Office under Section 3.360.0 of the Zoning Bylaw, at 17 Research Drive, with conditions.

Tom Simpson -- Yes Barbara Ford -- Yes Hilda Greenbaum -- Yes

DECISION: Application **APPROVED**, with conditions as stated in the decision

Town of Amherst Abutter List

<i>Parcel_ID</i>	<i>Parcel_Address</i>	<i>Owner1</i>	<i>Owner2</i>	<i>Address</i>	<i>CityStZip</i>
21B-41	54 LARKSPUR DR	THIBODEAU, DANIEL & RUSSELL, PAULA		54 LARKSPUR DR	AMHERST, MA 01002
21B-37	59 LARKSPUR DR	FRANKLIN, EVA J	C/O THERN, ROYAL A & JANICE E	59 LARKSPUR DR	AMHERST, MA 01002
21B-66	OLD BELCHERTOWN RD	LAVERDIERE, DONALD	LAVERDIERE, RONALD	463 WEST ST	AMHERST, MA 01002
21B-18	159 OLD BELCHERTOWN RD	BACON, BARBARA SCHAFER ETAL	EAGLE CREST PROPERTY MNGMT	POET VALLEY PRITNERS 73 MAIN ST	AMHERST, MA 01002
21B-95	PALLEY VILLAGE PL	THE PALLEY VILLAGE HOME OWNERS ASSOC INC		245 RUSSELL ST	HADLEY, MA 01035
21B-94	9 PALLEY VILLAGE PL	PALLEY, GORDON	C/O BARBARA SCHAFER BACON	P O BOX 2006	AMHERST, MA 01004
21B-93	17 PALLEY VILLAGE PL	THRASHER, KIMBERLY E & PRINCE, MARK C		17 PALLEY VILLAGE PL	AMHERST, MA 01002
21B-92	21 PALLEY VILLAGE PL	SIMONSON, NORMAN R & STACY B		21 PALLEY VILLAGE PL	AMHERST, MA 01004
21B-91	27 PALLEY VILLAGE PL	WOO, ERNEST C & ELLEN		27 PALLEY VILLAGE PL	AMHERST, MA 01002
21B-88	39 PALLEY VILLAGE PL	PALLEY, GORDON		136 HARKNESS RD	PELHAM, MA 01002-9783
21B-35-90	35 PALLEY VILLAGE PL	BANK OF AMERICA, NA	C/O DELMAN, BREE	35 PALLEY VILLAGE PL	AMHERST, MA 0100
21B-37-90	37 PALLEY VILLAGE PL	BRYNE, DAVID J & KATHRYN V		37 PALLEY VILLAGE PL	AMHERST, MA 01002
21B-40-89	40 PALLEY VILLAGE PL	DING, YANHUI & ZHU, CHUNLING		40 PALLEY VILLAGE PL	AMHERST, MA 01002
21B-42-89	42 PALLEY VILLAGE PL	NAGOORADUMAI, MOHAMED S		42 PALLEY VILLAGE PL	AMHERST, MA 01002

<i>Parcel ID</i>	<i>Parcel Address</i>	<i>Owner1</i>	<i>Owner2</i>	<i>Address</i>	<i>CityStZip</i>
21B-73	9 RESEARCH DR	PAUSE, STEPHEN M		945 BURLINGTON AVE #204	DOWNERS GROVE, IL 60515
21B-81	15 RESEARCH DR	CAREX LLC		8 LADYSLIPPER CIR	AMHERST, MA 01002
21B-82	19 RESEARCH DR	HART, LORRAINE A & PATTERSON, CHERYL A	TRUSTEES OF SAND DOLLAR REALTY TRUST	19 RESEARCH DR	AMHERST, MA 01002